

Notice of Allowability

Application No.

10/822,799

Examiner

Lakia J. Tongue

Applicant(s)

HASCHKE ET AL.

Art Unit

1645

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to December 27, 2005.
2. ☒ The allowed claim(s) is/are 1,2,4-9,11-14 and 18.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
 - * Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413), Paper No./Mail Date <u>2/2/06</u> |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____ |

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Robert Barrett on February 2 and February 3, 2006.

2. This office action is responsive to Applicant's response filed December 27, 2005. All rejections of record are withdrawn in view of Applicant's response. Claims 1, 2, 4-9, 11-14 and 18 (1-12 and 13 respectively) are allowed.

3. The application has been amended as follows:

In the claims:

Claim 1 (currently amended): A method of enhancing an immune response to measles after a measles vaccine which comprises administering at least one prebiotic or nutritional composition comprising at least one prebiotic to an individual that has received the measles vaccine, where in the prebiotic is present in an amount sufficient to enhance an immune response to measles after a measles vaccine.

Claim 2 (previously presented): The method of claim 1, wherein the at least one prebiotic or nutritional composition comprising at least one prebiotic is administered to a subject, wherein the prebiotic is present in an amount sufficient to enhance a measles immune response.

Claim 3 (canceled)

Claim 4 (original): The method of claim 1, wherein the prebiotic comprises an oligosaccharide produced from glucose, galactose, xylose, maltose, sucrose, lactose, starch, xylan, hemicellulose, inulin, or a mixture thereof

Claim 5 (original): The method of claim 1, wherein the prebiotic comprises a fructo-oligosaccharide.

Claim 6 (original): The method of claim 1, wherein the prebiotic comprises a mixture of fructo-oligosaccharide and inulin.

Claim 7 (original): The method of claim 1, wherein the prebiotic comprises, by weight, about 60% to about 80% fructo-oligosaccharide and about 20% to about 40% inulin.

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Claim 8 (original): The method of claim 1, wherein the prebiotic or nutritional composition further comprises a probiotic.

Claim 9 (original): The method of claim 8, wherein the prebiotic is selected from the group which consists of *Bifidobacterium bifidum* and *Streptococcus thermophilus*.

Claim 10 (canceled)

Claim 11 (original): The method of claim 1, wherein the at least one prebiotic or nutritional composition is administered in combination with a carrier.

Claim 12 (original): The method of claim 11, wherein the carrier comprises a source of protein, a source of carbohydrate, a source of fat, or a combination thereof.

Claim 13 (currently amended): The method of claim 11, wherein the carrier comprises cereal, fermented milk, yogurt, cheese, renneted milk, confectionery bar, beverage, milk powder, soy-based product, non-milk fermented product, or clinical nutrition supplement, or a combination thereof.

Claim 14 (original): The method of claim 13, wherein the carrier comprises infant cereal a source of protein and/or a source of carbohydrate and/or a source of fat.

Claims 15-17 (canceled)

Claim 18 (currently amended): A method for preventing measles ~~by~~ and enhancing an immune response to measles which comprises:
administering a first measles vaccine to a subject; and
administering at least one prebiotic or nutritional composition comprising at least one prebiotic to the subject, wherein the prebiotic is present in an amount sufficient to enhance a measles immune response.

Claim 19 (canceled)

4. The following is an examiner's statement of reasons for allowance. The prior art cited neither teaches nor suggest a method of enhancing an immune response to measles after a measles vaccine which comprises administering at least one prebiotic or nutritional composition comprising at least one prebiotic to an individual that has received the measles vaccine, where in the probiotic is present in an amount sufficient to enhance an immune response to measles after a measles vaccine.


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5. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance".

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lakia J. Tongue whose telephone number is 571-272-2921. The examiner can normally be reached on Monday-Friday 7-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynette Smith can be reached on 571-272-0864. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


LJT
02/03/06


LYNETTE R. F. SMITH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

Clean Copy of Claims

Claim 1: A method of enhancing an immune response to measles after a measles vaccine which comprises administering at least one prebiotic or nutritional composition comprising at least one prebiotic to an individual that has received the measles vaccine, where in the prebiotic is present in an amount sufficient to enhance an immune response to measles after a measles vaccine.

Claim 2: The method of claim 1, wherein the at least one prebiotic or nutritional composition comprising at least one prebiotic is administered to a subject, wherein the prebiotic is present in an amount sufficient to enhance a measles immune response.

Claim 3 (canceled)

Claim 4: The method of claim 1, wherein the prebiotic comprises an oligosaccharide produced from glucose, galactose, xylose, maltose, sucrose, lactose, starch, xylan, hemicellulose, inulin, or a mixture thereof

Claim 5: The method of claim 1, wherein the prebiotic comprises a fructo-oligosaccharide.

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Claim 6: The method of claim 1, wherein the prebiotic comprises a mixture of fructo-oligosaccharide and inulin.

Claim 7: The method of claim 1, wherein the prebiotic comprises, by weight, about 60% to about 80% fructo-oligosaccharide and about 20% to about 40% inulin.

Claim 8: The method of claim 1, wherein the prebiotic or nutritional composition further comprises a probiotic.

Claim 9: The method of claim 8, wherein the probiotic is selected from the group which consists of *Bifidobacterium bifidum* and *Streptococcus thermophilus*.

Claim 10 (canceled)

Claim 11: The method of claim 1, wherein the at least one prebiotic or nutritional composition is administered in combination with a carrier.

Claim 12: The method of claim 11, wherein the carrier comprises a source of protein, a source of carbohydrate, a source of fat, or a combination thereof.

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Claim 13: The method of claim 11, wherein the carrier comprises cereal, fermented milk, yogurt, cheese, renneted milk, confectionery bar, beverage, milk powder, soy-based product, non-milk fermented product, or clinical nutrition supplement, or a combination thereof.

Claim 14: The method of claim 13, wherein the carrier comprises infant cereal a source of protein and/or a source of carbohydrate and/or a source of fat.

Claims 15-17 (canceled)

Claim 18: A method for preventing measles and enhancing an immune response to measles which comprises:

administering a measles vaccine to a subject; and administering at least one prebiotic or nutritional composition comprising at least one prebiotic to the subject, wherein the prebiotic is present in an amount sufficient to enhance a measles immune response.

Claim 19 (canceled)